

ORIGINAL

INDIANA UTILITY REGULATORY COMMISSION

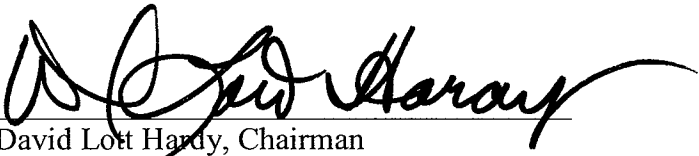
Notice of Proposed Rulemaking

IURC RM #07-02

LSA #07-235

The Indiana Utility Regulatory Commission (the "Commission"), pursuant to IC 8-1-1-3(g), IC 8-1-2-47, IC 8-1-2-69, and IC 8-1-2-89, hereby proposes to amend 170 IAC 8.5-1-1 regarding definitions used in this article and to amend 170 IAC 8.5-3-1 through 170 IAC 8.5-3-3 regarding application for a Certificate of Territorial Authority for sewage disposal services. The Commission shall hear public comments on the attached proposed rule at a date and time to be determined, in Suite 220, of the National City Center, 101 W. Washington Street, Indianapolis, Indiana.


The Secretary of the Commission is hereby directed to maintain five (5) copies of the proposed rule continuously on file in the Commission Offices for public inspection, and forward copies of the attached proposed rule to the Indiana Legislative Services Agency for publication in the Indiana Register.


David Loft Hardy, Chairman


Jeffrey L. Golc, Commissioner

ABSENT
Larry S. Landis, Commissioner


Gregory D. Server, Commissioner


David E. Ziegner, Commissioner

ATTEST:


Brenda A. Howe, Secretary to the Commission

Date: JUN 20 2007

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Proposed Rule LSA Document #07-235

DIGEST

Amends 170 IAC 8.5-1-1 regarding definitions used in this article and 170 IAC 8.5-3-1 through 8.5-3-3 regarding application for a Certificate of Territorial Authority for sewage disposal services. Effective 30 days after filing with the Publisher.

**170 IAC 8.5-1-1
170 IAC 8.5-3-1
170 IAC 8.5-3-2
170 IAC 8.5-3-3**

SECTION 1. 170 IAC 8.5-1-1 IS AMENDED AS FOLLOWS:

170 IAC 8.5-1-1 Definitions

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-2-1; IC 8-1-2-89

Sec. 1. Definitions. The following definitions shall apply to this article, except where otherwise defined.

(a) Where applicable, the definitions set forth in IC 8-1-2-1 shall be applied to ~~these rules~~ *170 IAC 8.5-1-1, and this article.*

(b) The word "customer" shall mean any person, firm, corporation, municipality or other government agency which has agreed, orally or otherwise, to pay for sewage disposal service rendered by a sewage disposal company; provided that for the purposes of ~~Rules 15, 16 and 16.1~~ *170 IAC 8.5-2-3, 170 IAC 8.5-2-4 and 170 IAC 8.5-2-5* **sections 3, 4, and 5 of rule 2 of this article**, the word "customer" shall be limited to mean persons who have agreed to pay for such service exclusively for residential purposes.

(c) The word "disconnection" shall mean the termination or discontinuance of sewage disposal service.

(d) The words "late payment charge" shall mean the one-time penalty assessed by a sewage disposal company upon all current bills at such time as they become delinquent.

(e) **The words "Certificate of Territorial Authority" or "CTA" shall mean the authority for a utility to operate within a specified geographic area.**

(~~e~~) (f) The word "~~Commission~~" "**commission**" shall mean the ~~Public Service Commission of~~ **Indiana utility regulatory commission.**

(~~f~~) (g) The words "lateral sewer" shall mean sewerage pipe, owned, operated or maintained by a sewage disposal company, which is used to transport sewage, but does not include "service pipe".

(h) **The word "NARUC" refers to the National Association of Regulatory Utility Commissioners.**

(i) **The words "NARUC Uniform System of Accounts" shall mean the rules and regulations governing the classification of accounts applicable to a utility as developed by the National Association of Regulatory Utility Commissioners and adopted by reference by the commission for Indiana utilities.**

(~~g~~) (j) The words "service pipe" shall mean the pipe which runs from the customer's premises to the lateral sewer and which receives sewage from the customer's premises.

(~~h~~) (k) The word "premises" shall mean a tract of land or real estate, including buildings and other appurtenances thereon.

(~~i~~) (l) The words "sewage disposal service" shall mean any utility service whereby liquid and solid waste, sewage, night soil and industrial waste within the limitations of ~~Rule 2(C)~~ *170 IAC 8.5-1-2(e)* **section 2(c)** of any single territorial area is collected, treated, purified and disposed of in a sanitary manner, and includes all sewage treatment plant or plants, main sewers, submain sewers, local and/or lateral sewers,

intercepting sewers, outfall sewers force mains, pumping stations, ejector stations and all other equipment and appurtenances necessary or useful and convenient for the rendition of such service.

(j) (m) The words "sewage disposal company" shall mean any natural person, firm, association, corporation or partnership owning, leasing or operating any sewage disposal service within the rural areas of this state. (*Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 1; filed Dec 9, 1981, 10:20 am: 5 IR 13; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

SECTION 2. 170 IAC 8.5-3-1 IS AMENDED AS FOLLOWS:

Rule 3. Operation of Sewage Lines

170 IAC 8.5-3-1 Application for Certificate of Territorial Authority (CTA)

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 1. Application for Certificate of Territorial Authority (CTA). Whenever a sewage disposal company petitions for a Certificate of Territorial Authority, either as an initial authority or as an expansion of its authorized territory, it shall submit, where appropriate, the following exhibits, ~~sufficiently in advance of the hearing to enable the Commission staff to make a proper review of them so as to avoid any delay in the hearing:~~

(a) Required for initial applications only:

- (1) Articles of Incorporation. ~~Required only for initial applications.~~
- (2) Legal description of area to be served.
- (3) (2) Legal description of Petitioner's sewage disposal plant site. ~~Required only for initial applications.~~
- (4) ~~Letter of approval of Environmental Management Board.~~
- (5) ~~Letter of approval of Stream Pollution Control Board.~~
- (6) ~~Certificate of approval of Department of Natural Resources.~~
- (7) ~~Plans and specifications of treatment plant.~~
- (8) ~~Plans and specifications of sanitary sewers.~~
- (9) ~~Area maps as outlined in instructions of Rule 18 [170 IAC 8.5-3-2].~~
- (10) ~~Letter of acknowledgement from owner-operator of any sanitary system within five (5) miles of the company's system that he is familiar with the company's interest to apply for a Certificate of Territorial Authority. In lieu thereof, a copy of the sewage disposal company's certified letter to the owner-operator informing him of the company's application for a Certificate of Territorial Authority should be submitted together with the signed return receipts. Any other correspondence from such owner-operator relating to the proposal shall be included.~~
- (11) ~~Statement of estimated costs of construction of sewage disposal plant, including and separately as to treatment plant, collection system and pumping plant.~~
- (12) ~~Estimated operating expenses, depreciation and revenue. Required only for initial applications.~~
- (13) (3) ~~Five~~ Ten-year feasibility study and pro forma financial statements, including:
 - (A) ~~proposed user rates and~~
 - (B) ~~non-recurring charges.~~ Required only for initial applications.
- (14) (4) Personal guarantee by a principal of the corporation for a period of five years ~~from the date a utility provides service to its first customer or receives its CTA, whichever is greater,~~ accompanied by a personal financial statement (See Rule 19 [170 IAC 8.5-3-3] for sample form) pursuant to section 3 of this rule. ~~Required only for initial applications or as otherwise deemed appropriate by the Administrative Law Judge.~~

(b) Required for all applicants, including initial applicants:

- (1) Legal description of area to be served.
- (2) Letter of approval from:
 - (A) the Indiana department of environmental management or
 - (B) the state department of health.

- (3) Provide documents to support approvals that have been obtained from the Indiana department of natural resources if necessary.
- (4) Plans and specifications of treatment plant and sanitary sewers.
- (5) Area maps as outlined in instruction of 170 IAC 8.5-3-2.
- (6) Letter of acknowledgement from owner-operator of any sanitary system within five (5) miles of the company's system that he is familiar with the company's interest to apply for a CTA, which should be submitted together with the signed return receipts, as well as any other correspondence from such owner-operator relating to the proposal.
- (7) Statement of estimated costs of construction of sewage disposal plant, including and separately as to treatment plant, collection system and pumping plant.
- (8) As deemed appropriate by the Administrative Law Judge, a personal guarantee and personal financial statement as described in subsection (a)(4).
- (c) A petition for initial authority or expansion of existing territorial authority shall include an original and four (4) copies of the application and the required exhibits.
- (d) Instructions on the contents of the required exhibits for a CTA follow ~~are in Rule 18 [170 IAC 8.5-3-2] section 2 of this rule and sample forms are set out in Rule 19 [170 IAC 8.5-3-3] section 3 of this rule. Rules 18 and 19 [170 IAC 8.5-3-2 and 170 IAC 8.5-3-3] follow Commission Order No. 27122 which prescribes the form of CTA applications for sewage disposal service in rural areas in Indiana. (Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 17; filed Dec 9, 1981, 10:20 am; 5 IR 21; readopted filed Jul 11, 2001, 4:30 p.m.; 24 IR 4233)~~

SECTION 3. 170 IAC 8.5-3-2 IS AMENDED AS FOLLOWS:

170 IAC 8.5-3-2 Instructions for exhibits for CTA applications

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 2. Instructions for Exhibits for CTA Applications. ~~(1)~~ (a) Maps

(1) The area, ~~or areas,~~ ~~should~~ **shall** be shown on:

(A) a flood plain map and

(B) a county map (if more than one county, separate county maps)

scaled at approximately one inch per mile.

(2) The county map ~~should~~ **shall** include all:

(A) roads, and

(B) highways,

(C) streams,

(D) section lines,

(E) and township lines, and

(F) range numbers, and

(G) township numbers, **including Township township** corner sections ~~should be numbered, (1, 6, 30 and 36).~~

The maps may be or be similar to:

~~General Highway and Transportation Map Prepared by The State Highway Department of Indiana Planning Division In Cooperation with the U.S. Department of Commerce Bureau of Public Roads~~

(3) The rural areas presently being served by sewage disposal service, if any, shall be colored in green and the area requested shall be colored in red.

(4) Any sewer systems or municipal corporation limits within 5 miles of the proposed area to be served by this petition shall be clearly shown on this map.

~~(2) (b) Description of Area~~ The rural areas shall be outlined and described, **including the following:**

~~(A)~~ (1) County,

~~(B)~~ (2) Township,

~~(C)~~ (3) Sections, or parts of sections,

(4) range Range, and

(5) township Township.

(3) (c) Other Maps or Plats—If the rural area is subdivided, or planned for subdivision, there shall be maps showing this platting. These maps may be part of the plans, as requested below, showing the sewage collection mains and appurtenances.

(4) (d) Plans and Specifications—The plans should show a layout of collection mains showing size, manholes, location of disposal plant, effluent line and stream receiving the effluent. A plan of the disposal plant should show the flow, major functional operations, stages of treatment and capacity. A waiver may be granted by the ~~Engineering Department~~ **commission** upon request and with justification.

(5) (e) Feasibility Study—This study should include:

(1) balance sheets;

(2) revenue and operating statements;

(3) **cash flow statements;**

(4) original cost of plant if now operating as a public utility, as prescribed in the NARUC Uniform System of Accounts for Rural Sewage Utilities prepared by the ~~Accounting Department of the Public Service Commission of Indiana;~~

(5) estimated construction costs of new plant or additions;

(6) method of financing costs; and

(7) pro forma revenue and expenses by years for a period of ~~five~~ **ten** years, including supporting details to pro forma revenues.

(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 18; filed Dec 9, 1981, 10:20 am: 5 IR 22; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)

SECTION 4. 170 IAC 8.5-3-3 IS AMENDED AS FOLLOWS:

170 IAC 8.5-3-3 Sample CTA application and personal guarantee forms

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

~~Sec. 3. Sample CTA Application and Personal Guarantee Forms.~~ (a) Application Form

STATE OF INDIANA

PUBLIC SERVICE UTILITY REGULATORY COMMISSION

OF INDIANA

APPLICATION OF _____)
FOR A CERTIFICATE OF TERRITORIAL _____)
AUTHORITY TO RENDER SEWAGE DISPOSAL _____) CAUSE NO.
SERVICE IN A RURAL AREA IN _____)
COUNTY, INDIANA. _____)

TO THE PUBLIC SERVICE COMMISSION OF INDIANA UTILITY REGULATORY
COMMISSION:

Your applicant, _____ respectfully represents:

1. ~~Application~~ **Applicant** is a corporation organized under the laws of the State of _____, with its principal office in the City of _____, County, of _____. (See Note 1) The officers executing this application are authorized to receive notices and communications from the Commission. Applicant has a charter power and authority to engage in, and is engaged in operating a sewage disposal service within the rural area of the State of Indiana.

2. Applicant desires to commence rendering sewage disposal service in a rural area in _____ County in Indiana, which rural area is shown on the Map that is marked "Exhibit A" (See Note 2), is attached hereto and is hereby made a part thereof, and which rural area is more particularly described in Item 2 of the Statement which marked "Exhibit B" (See Note 2), is attached hereto and is hereby made a part hereof. Such facilities, or extension of facilities, to provide said service as will be presently constructed, and the location thereof, are described in Item 3 of said "Exhibit B".

3. Applicant represents that it has lawful power and authority to obtain a Certificate of Territorial Authority and to render the proposed sewage disposal service if it obtains a Certificate of Territorial Authority therefor, that it has the financial ability to provide the proposed sewage disposal service, that public convenience and necessity require the rendering of the proposed sewage disposal

service, and that the public interest will be served by the issuance to applicant of the Certificate of Territorial Authority hereby sought.

WHEREFORE, Applicant prays that, after due notice and public hearing, the Commission shall grant this application and issue to Applicant a Certificate of Territorial Authority to commence and render a sewage disposal service in the rural area herein described, and shall grant all other proper relief.

Name of Applicant
By _____
President or
Vice-President
(See Note 3.)

(Address of Applicant)

ATTEST:

SECRETARY (See Note 3.)

(Name and address of Attorney)

STATE OF _____)

_____) SS:

COUNTY OF _____)

_____, being first duly sworn on oath deposes and says that he is
_____ of _____, Applicant herein; that he/she has
read the foregoing application and is familiar with the contents thereof; and that the statements therein
contained are true to the best of his/her knowledge, information and belief.

(See Note 3.)

SUBSCRIBED and SWORN to before me this _____
_____ day of _____,

_____, 1920 _____.

(See Note 3.) Notary Public

My Commission expires _____

NOTES:

1. If applicant is not a corporation, appropriate changes in the application, including the signature thereto, should be made.
2. If rural areas in more than one county are covered by the application, designate "Exhibit A-Part," etc., or "Exhibit B-Part 1," etc., as applicable.
3. Immediately below each signature the name of the person signing shall be typed in.
4. ~~Commission rules require that 5 copies of this application be filed.~~

(b) Personal guarantee form.

PERSONAL GUARANTEE
APPLICANT'S EXHIBIT _____
PERSONAL GUARANTEE OF _____ *

WHEREAS, the undersigned, _____ * is the _____ * of _____,
*** and

WHEREAS, he is also an officer of _____ ** which is the owner of all the outstanding
capital stock of

_____ *** and,

WHEREAS, he also owns controlling interest in the outstanding stock of
_____ **.

NOW THEREFORE, for the purpose of inducing the ~~Public Service~~ **Indiana Utility Regulatory**
Commission of ~~Indiana~~ to issue a Certificate of Territorial Authority to _____ ***, an Indiana

corporation, authorizing it to furnish sewage treatment and disposal services in the area described in said Petition, the undersigned does hereby agree and bind himself/**herself** as follows, to wit:

(1) To operate and maintain the plant and property of the Petitioner, _____ ******* in a satisfactory and reasonable manner so as to serve its customers with adequate service as authorized and directed by the **Indiana Utility Regulatory Public Service Commission of Indiana**.

(2) To supply, from time to time, sufficient working capital to said Petitioner corporation if and when such capital shall be needed to carry out the guarantee herein set forth.

(3) This agreement shall be in full force and effect and binding upon the undersigned _____ ***** for a period beginning on the date of **service is first rendered or** the issuance of the above described Certificate of the **Indiana Utility Regulatory Public Service Commission of Indiana**, **whichever is greater**, and shall continue in full force and effect for a period of five (5) years hereafter, after which said agreement shall become null and void.

IN WITNESS WHEREOF, the said _____ ***** has hereunto set his/**her** hand and seal this _____ day of _____, 1920 _____.

STATE OF INDIANA)

) SS:

COUNTY OF)

Before me, the undersigned, a Notary Public, personally appeared _____ ***** and acknowledged the execution of the above and foregoing guarantee for the use and purposes therein set forth this _____ day of _____, 1920 _____.

Notary Public

My Commission Expires:

*****Name and position of an officer of corporation making this guarantee.

******Name of organization sponsoring the development requiring sewerage **sewage disposal** service.

*******Name of sewerage **sewage disposal** services corporation.

(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 19; filed Dec 9, 1981, 10:20 am: 5 IR 22; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)